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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

6 THOMAS BRAND,

7 Plaintiff,

8 v.

9 GREG COX, et. al.,

10 Defendants.
11

Case No. 3:17-cv-00043-MMD-WGC

ORDER

Re: ECF Nos. 59, 60, 63, 64

12 At a July 11, 2018 hearing, Deputy Attorney General Erin Albright withdrew a motion
13 for summary judgment and motion to dismiss (ECF Nos. 24, 25) previously filed by defendants
14 Keith and Moyle. (*See* Minutes at ECF No. 68 at 3.) At that time, the court suggested counsel
15 consider deferring the re-filing of corrected motions until after the court issued an order
16 screening the First Amended Complaint (FAC), as filing the motions before that point would
17 render them moot once the FAC was screened. (*Id.*) Despite that suggestion, the motions were
18 re-filed the following day. (ECF Nos. 59, 60.)

19 The motions address the original complaint and screening order, and not the FAC.


20 The court will be issuing a report and recommendation screening the FAC,
21 recommending that certain claims be allowed to proceed, and that certain claims be dismissed
22 with prejudice. The subject of that screening order includes topics raised in the re-filed motion to
23 dismiss and motion for summary judgment. Since the motions do not address the operative
24 pleading, and did not await an order addressing which claims will proceed in the FAC, the
25 motions (ECF Nos. 59, 60) are **DENIED WITHOUT PREJUDICE**. Defendants may assess the
26 viability of their arguments and determine whether to file further dispositive motions once an
27 order issues addressing the recommendations on screening of the FAC.

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1 Plaintiff's motions to strike the re-filed motions (ECF Nos. 63, 64) are **DENIED AS**
2 **MOOT.**

3 **IT IS SO ORDERED.**

4 DATED: July 27, 2018.

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6 WILLIAM G. COBB
7 UNITED STATES MAGISTRATE JUDGE
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